

405 KAR 1:240. Mountaintop removal.

RELATES TO: KRS 350.450

STATUTORY AUTHORITY: KRS 350.028, 350.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028 requires the Environmental and Public Protection Cabinet to adopt rules and administrative regulations for the strip mining of coal. This administrative regulation sets forth special requirements for strip mining by the method of mountaintop removal.

Section 1. Strip mining operations that remove entire coal seams running through the upper part of a mountain, ridge, or hill by removing all the overburden and creating a level plateau of gently rolling contour with no highwalls remaining are exempt from the requirements of 405 KAR 1:130 for achieving approximate original contour, if the following requirements are met:

(1) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed for the affected land.

(2) The alternative postmining land use criteria in 405 KAR 1:070 are met and the proposal is approved by the cabinet.

(3) The requirements of all other applicable administrative regulations of this chapter are met in addition to the special requirements of this administrative regulation.

Section 2. Strip mining operations conducted pursuant to this administrative regulation shall comply with the standards of this section.

(1) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam and its associated overburden, shall be retained to prevent slides and erosion.

(2) The final graded top plateau slopes on the mined area shall be less than 1v:5h (twenty (20) percent) so as to create a level plateau or gently rolling configuration and the outslope of the plateau shall not exceed 1v:2h (fifty (50) percent), except where engineering data substantiates and the cabinet finds that a minimum static safety factor of 1.5 will be attained. The cabinet may require higher static safety factors depending upon specific site conditions.

(3) The resulting level or gently rolling contour shall be graded to drain inward from the outslope except at specific points where it drains over the outslopes in protected stable channels.

(4) All highwalls, spoil piles, and depressions shall be eliminated except as provided in 405 KAR 1:130, Sections 4 and 5, with regard to backfilling and grading.

(5) Damage to natural water courses below the area to be mined shall be prevented.

(6) Spoil shall be placed on the mountaintop bench as is necessary to achieve the postmining land use approved under 405 KAR 1:070. All excess spoil material not retained on the mountaintop shall be placed in accordance with the standards of 405 KAR 1:140.

Section 3. (1) All permits giving approval for mountaintop removal shall be reviewed not more than three (3) years from the date of issuance of the permit, unless the permittee affirmatively demonstrates and the cabinet finds that all operations are proceeding in accordance with the terms of the permit, KRS Chapter 350 and the applicable administrative regulations of this chapter.

(2) The terms of a permit for mountaintop removal may be modified by the cabinet if it determines that more stringent measures are necessary to prevent or control slides and erosion, prevent damage to natural water courses, avoid water pollution, or to assure successful revegetation. (4 Ky.R. 399; eff. 5-3-78; Am. 499; 5 Ky.R. 210; eff. 8-23-78; TAm eff. 8-9-2007.)